

STEPHEN AUSTIN'S MOTION FOR LEAVE TO FILE MOTION TO TURNOVER FUNDS IN RECEIVER'S POSSESSION OR CONTROL; AND IN THE ALTERNATIVE MOTION TO EXTEND TIME TO FILE CLAIM

COMES NOW, Stephen Austin, ("Claimant") a resident of Amarillo, Texas and a person adversely affected by the receivership herein would show as follows:

- A Complaint for Relief including the appointment of a Receiver was filed in this court on September 22, 2020. [Dkt. 2].
- 2. That same day the Court entered a Statutory Restraining Order ("SRO") which authorized the receiver to seize and safeguard money in the hands of Defendants, including Barrick Capitol, Inc, a party that received funds from Claimant after the Complaint was filed and SRO was entered.
- 3. Additionally, this Court entered a stay order on all proceedings requiring any party (or the Receiver) that wishes to file a new motion, must first seek and obtain leave of court.

- 4. As shown by Exhibits "A", (Letter from Receiver), "B" (Claim of Movant, Stephen Austin), "C" (Wire transfer detail), and "D" (Affidavit of Stephen Austin) attached hereto, Claimant's funds in the amount of \$54,990.72 were deposited into the Bank of America account of Barrick Capital, Inc. ("Barrick") on September 25, 2020, three days after the date of the receivership and this Court's Statutory Restraining Order ("SRO") on September 22, 2020, the same day as the Complaint was filed against Barrick.
- 5. As shown by Exhibit "A" the receiver, Kelly Crawford has possession or control of these funds, agrees that Defendant Barrick Capitol received the funds by wire after the receivership and SRO, but states "Kelly is not able to issue this money back to your client without a court order."
- 6. The Receiver established a claims process that required claimants unlike Stephen Austin (that is claimants whose funds were in Barrick's possession and control prior to the SRO) to file claims on or before June 15, 2021. [Dkt. 241] No notice of that motion was provided to Claimant, and no notice was received by him. (See Exhibit "D")
- 7. The Court entered an order granting that extension on May 7, 2021. [Dkt. 248] Claimant did not have any notice of the receivership, or the danger of losing his funds, until September of 2021 when another party solicited his investment and informed him of Barrick's receivership.
- 8. As shown by his sworn statement (Exhibit "D") Claimant did not receive notice directly or indirectly from the receiver, Barrick, or any other party that his funds were in a receivership, or of any deadlines related to making a claim therein until September of 2021.

9. Claimant respectfully requests that the Motion for Leave be granted; and after an order

granting leave, that he be allowed to file a Motion with appropriate briefing; and upon

hearing that the receiver be directed or allowed to return the funds identified above to

Claimant, without having to wait for further proceedings that apply to claimants' whose

funds are properly that of the Receiver, and that were trapped *prior to* the SRO.

10. Failing such relief, Claimant requests additional time to file his claim with the Receiver

and the Court in the form attached hereto as Exhibit "B".

11. Accordingly, Claimant, Stephen Austin, requests permission to file a Motion For Leave

To File Motion To Turnover Funds In Receiver's Possession Or Control; And In The

Alternative Motion To Extend Time To File Claim.

Dated: October 29, 2021

Respectfully submitted,

NORTHERN LAW FIRM

2700 S. Western, Suite 200 Amarillo, Texas 79109

Tel. (806) 374-2266

Fax. (806) 374-9535

/s/Van W. Northern

Van W. Northern

State Bar No. 15101100

CERTIFICATE OF CONFERENCE

On October 29, 2021, the attorney for Claimant contacted the office of the Receiver, Kelly M.

Crawford, and left a message requesting his support or opposition of this Motion for Leave, and he was

unavailable for conference. This Motion shall be deemed opposed, unless corrected by future

communications.

/s/Van W. Northern

Van W. Northern

CERTIFICATE OF SERVICE

The undersigned certifies that he has on the date shown below transmitted a true copy of the foregoing document to all parties requesting notice, and the following parties in interest, by electronic notification via the Court's electronic case filing system on October 29, 2021.

/s/Van W. Northern Van W. Northern



Van Northern <northernlegalpc@gmail.com>

Metals.com Receivership - Stephen Austin

1 message

Cynthia Morris <cynthia.morris@solidcounsel.com>
To: "northernlegalpc@gmail.com" <northernlegalpc@gmail.com>
Cc: Kelly Crawford <kelly.crawford@solidcounsel.com>

Thu, Oct 21, 2021 at 4:34 PM

Van:

The Receiver has confirmed from the bank your client's \$54,990.72 wire deposit into Barrick capital on September 25th — three days after the date of the receivership. Kelly is not able to issue this money back to your client without a court order. When Kelly files his supplemental receiver's report, which addresses claim additions, amendments, and objections, he also will seek authority to issue a check from the receivership that returns the full amount of the money to your client and follow-up with a proposed order granting him this authority.

In the meantime, if you have any additional questions or concerns, please let us know right away.

Best,

Cynthia Morris | Paralegal

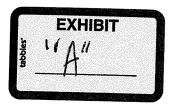
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INVESTOR CONFIRMATION

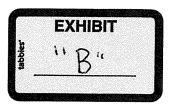
Stephen Austin 166 West Cliffside Drive Amarillo, TX 79108 Sfaustin1127@gmail.com

Based on the information available to the Receiver, the Receiver determined that you or the custodian of your IRA made purchases from the Defendants, Relief Defendant, or Entities they owned or controlled as listed on Exhibit A.

VERIFICATION

X	I verify that all information provided to the Receiver is true and accurate.
	No, the information is not correct.
The in	formation is not correct as follows.
Did yo	ou receive the metals you ordered?
	Yes, the metals were delivered to me personally.
	Yes, the metals were delivered to a depository for me personally.
~~	Yes, the metals were delivered to a depository for my IRA account.
X	No, the metals were never delivered to either me or to a depository.

Other, explain: Metals Investment was made on September 25,2020, and metals were not received by me nor the depository.



Page 2 of 3 Confirmation Form

If the metals were not delivered, please, identify what was not delivered and where metals were to be delivered.

Quantity	Description	Shipping Destination

Did you or your IRA receive a IRA invested when purchasing If Yes, when did you receive a	coins? X_	n the Defendants, that you or your No Yes receive? \$
	CONFIRMATION	
By signing below, I am confirm	ning that all foregoing informa	ation is true.
By: /s/ Stephen Austin		Date: October 29, 2021
Electronically signed by Cynth Via Phone Permission given o		

Please Return your completed and signed Confirmation Form to:

Kelly Crawford, Receiver 500 N. Akard, Suite 2700 Dallas, Texas 75201 (214) 706-4213-Office 214-706-4242-Facsimile

Email: kelly.crawford@solidcounsel.com

THIS CONFIRMATION MUST BE POST MARKED BY APRIL 30, 2021.

Page 3 of 3 Confirmation Form

Exhibit A

IRA Purchase	832	1/2 oz Silver - Canadian Arctic Wildlife Series Coin	\$32.71	\$27,214.72
IRA Purchase	62	1/10 oz Gold – Canadian Wildlife Series Coin	\$448.00	\$27,776.00

Name: STEPHEN AUSTIN

BANK OF AMERICA

Transaction Details

Date: 25-Sep-2020

Account Number: 325000533171

Bank ID: 121000358

Transaction: Outgoing Money Transfer Debit (495)

Currency: USD
Amount: 54,990.72
Credit/Debit: DEBIT

Value Date:

Immediate Avail: 0.00 1 Day Float: 0.00 2 Day Float: 0.00

WIRE TYPE:WIRE OUT DATE:092520 TIME:1427 ET TRN:2020092500574603 SERVICE REF:012766

FED IMAD:20200925B6B7HU2R012766

RELATED REF:551379311855173

ORIG:THE ENTRUST GROUP ID:325000533171

BNF:BARRICK CAPITAL INC. 8484 WILSHIRE BLVE #515

Text: BEVERLY

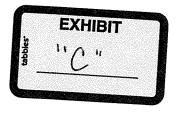
HILLS CA 90211 US ID:8536189973

BNF BK:WELLS FARGO BANK N.A. ID:121000248

INT BK: ID: RECV BK: ID: PAYMENT DETAILS:

EA91820EA Stephen Austin IRA 71

/30015655



SWORN AFFIDAVIT OF STEPHEN AUSTIN

STATE OF TEXAS

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COUNTY OF POTTER

"My name is Stephen Austin. I am over 18 years of age, of sound mind, capable of making this affidavit, never convicted of a felony, personally acquainted with the facts stated in it, and under penalty of federal perjury would show as follows:

"I am the Claimant and Movant in the attached matter.

"I have read the factual matters set forth in the Motion for Leave and they are true and correct.

"Furthermore, the documents attached to the Motion (Exhibits "A" "B", and "C") are true copies of business records of mine related to my transfers of cash to Barrick Capitol and communications with the Receiver, Kelly Crawford or his staff member Cynthia Morris.

"I received no notice of the receivership or any deadlines until sometime in September 2021 when another party solicited my investment, who told me of the receivership of Barrick Capitol.

"My money was not received by Barrick until after the receivership was filed and SRO entered.

"I give my permission to use my electronic signature the same as if I had signed it with wet ink.

"Further, Affiant sayeth not."

/s/ Stephen Austin

Stephen Austin 166 West Cliffside Drive Amarillo, Texas 79108

